

REMARKS

Claims 55-66 were pending in the instant application as of the issuance of the present Office Action. According to the foregoing Amendments to the Claims, claims 55, 56 and 57 have been amended without prejudice. No new matter has been introduced by the foregoing amendments.

Any amendments to the claims have been made solely in the interest of expediting prosecution and allowance of the application. The foregoing amendments are not related to issues of patentability. Applicants reserve the right to pursue previously claimed subject matter in this or separate application(s).

With respect to the rejections maintained by the Examiner, Applicants respectfully request reconsideration and examination of this application and the timely allowance of the pending claims in view of the arguments presented below.

Rejection of Claims 55-64 under 35 U.S.C. § 112 – Written Description

The Examiner has rejected claims 55-64 under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner alleges that to the extent that claim 55 is directed to a nucleotide sequence at least 90% identical to or a fragment of SEQ ID NO:1 and having promoter activity, that the claims are not in compliance with the written description requirement.

Applicants respectfully disagree. Notwithstanding the foregoing, solely in the interest of expediting examination and in no way acquiescing to the validity of the outstanding rejection, Applicants have amended claim 55 to recite, in part, ***a method for preparing lysine by cultivating a genetically modified Corynebacterium glutamicum comprising (1) a nucleic acid molecule having promoter activity, wherein the nucleic acid molecule consists of a nucleic acid molecule comprising the nucleotide sequence of SEQ ID NO:1.***

Applicants submit that the foregoing amendments render the outstanding rejection moot. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 55-64 as lacking written description.

Rejection of Claims 55-66 under 35 U.S.C. § 112 – Enablement

The Examiner has rejected claims 55-66 under 35 U.S.C. § 112, first paragraph, and alleges that the specification, while being enabling for a genetically modified *Corynebacterium glutamicum*, does not reasonably provide enablement for any genetically modified microorganism.

Applicants respectfully disagree. Notwithstanding the foregoing, solely in the interest of expediting prosecution and in no way acquiescing to the validity of the outstanding rejection, claim 55 has been amended to recite ***a method for preparing lysine by cultivating a genetically modified Corynebacterium glutamicum comprising...***

Thus, as claim 55 has been amended to require a genetically modified *Corynebacterium glutamicum*, which the Examiner has acknowledged is fully enabled, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 55-66 as lacking enablement.

Rejection of Claims 55-66 under 35 U.S.C. § 112, second paragraph

The Examiner has rejected claims 55-66 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner alleges that there is insufficient antecedent basis for the limitation “the complement” in claim 55, part (c).

Applicants respectfully disagree. Notwithstanding the foregoing, solely in the interest of expediting examination and in no way acquiescing to the validity of the outstanding rejection, claim 55 has been amended to delete reference to “the complement,” thereby rendering the foregoing rejection moot.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 55-66 under 35 U.S.C. § 112, second paragraph.

SUMMARY

In view of the foregoing remarks, reconsideration of the rejections and allowance of all pending claims is respectfully requested. If there are any remaining issues or if the Examiner believes that a telephone conversation with Applicants' Attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

The Commissioner is hereby authorized to charge any deficiency in the fees paid herewith, or credit any overpayment, to Deposit Account No. 12-0080, under Order No. PKI-186US, from which the undersigned is authorized to withdraw.

Dated: November 17, 2009

Respectfully submitted,

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